IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 2902 of 2007(U)

PETITIONER:

MANAGING TRUSTEE, A.M.KHARIM,
JAI BHARATH ARTS & SCIENCE COLLEGE, J.B NAGAR,
ARAKKAPADY, PERUMBAVOOR, ERNAKULAM DISTRICT -
683 554.

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM (SR.)
SRI.TONY GEORGE KANNANTHANAM
SRI.JIJI THOMAS

RESPONDENTS:

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1. STATE OF KERALA, REP. BY SECRETARY,
HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIT
TRIVANDRUM.

2. MAHATMA GANDHI UNIVERSITY,REP. BY ITS
REGISTRAR, PRIYADARSHINI HILLS, KOTTAYAM.

3. THE VICE CHANCELLOR, MAHATMA GANDHI
UNIVERSITY, KOTTAYAM.

BY SRI.V.A.MUHAMMED, S.C., M.G.UNIVERSITY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.2902 OF 2007

Dated this the 6th day of February, 2007

JUDGMENT

Heard learned counsel for the petitioner, learned Government Pleader as also standing counsel for respondents 2 and 3.

2. The petitioner had applied for affiliation of additional courses in time, for commencement of such courses from the academic year 2006-2007. The University considered the request of the petitioner and came to the conclusion that the petitioner have appropriate infrastructural facilities to be granted affiliation. Accordingly, to obtain the views of the Government, the University addressed Ext.P1 on 31.5.2006, stating that the Syndicate has resolved to write the Government for sanction. The views of the Government were requested to be intimated, however, as of now, the Government has not expressed any opinion of dissent to the view taken by the

University to grant affiliation. All that the Government had done was to issue a general letter on 27.12.2006 stating that the Universities have been addressed not to process the applications having regard to detailed study of the man power requirement of the State being conducted by the State Government.

3. The option of the University to grant affiliation or not is a statutory matter and that cannot weigh entirely with the ipse dixit of the Government. Nor can it be dependent on any general decision of the Government not to let the Universities grant any new courses. Not only that, once the Government are requested to express its views, it is not the approval of the Government that is intended and what is sought for is only its views in the matter. Any decision of the Government and its views could only have a recommendatory image. Therefore, such recommendatory views not placed within the reasonable time does not obligate the University to await such views indefinitely. That apart, if any view contrary to the tentative decision of the University is not communicated, it can necessarily be taken that

the Government has no objection in the matter. This concept is rightly covered in a decision of the Apex Court which deals with the Central regulatory power, which has been profitably applied by this Court in the judgment in W.P(C).2733/07.

Under such circumstances, this writ petition is disposed of directing that the University will take up the application of the petitioner for grant of affiliation to the courses applied for and communicated by the University for Government approval, at the next meeting of the Syndicate of the University. The petitioner will produce a copy of this judgment before the competent authority in the University for appropriate follow up action.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.